

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

U.S.A. vs. Dennis Andrew Cervený

Docket No. 7:12-MJ-1109-1RJ

Petition for Action on Probation

COMES NOW Djoni B. Barrett, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Dennis Andrew Cervený, who, upon an earlier plea of guilty to Driving While Impaired, Level 5, in violation of 18 U.S.C. § 13 [N.C.G.S. 20-138.1], was sentenced by the Honorable Robert B. Jones, Jr., U.S. Magistrate Judge, on April 17, 2013, to a 12-month term of probation under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall perform 24 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required \$200 fee.
2. The defendant shall obtain a substance abuse assessment from an appropriate mental health facility within thirty (30) days from the date of this judgment and complete any prescribed treatment program. The defendant must pay the assessment fee and any added treatment fees that may be charged by the facility.
3. The defendant shall surrender his North Carolina driver's license by April 27, 2013, to the Clerk of this Court for mailing to the North Carolina Division of Motor Vehicles and not operate a motor vehicle on the highways of the State of North Carolina except in accordance with the terms and conditions of a limited driving privilege issued by the appropriate North Carolina Judicial Official.
4. The defendant shall participate in any other Alcohol/Drug Rehabilitation and Education program as directed by the U.S. Probation Office.
5. The defendant shall pay a special assessment of \$10.00 and a fine of \$100.00.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: The defendant is 73 years old and is 90% disabled with a multitude of physical health problems which include high blood pressure, prostate cancer, hearing loss, and arthritis in both hands. Community service agencies will not allow the defendant to perform community service due to his advanced age and physical health condition. Consequently, we are recommending this requirement be stricken from the judgment.

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PRAYING THAT THE COURT WILL ORDER that probation be modified as follows:

The special condition requiring the defendant to perform 24 hours of community service as directed by the probation office is stricken from the judgement.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

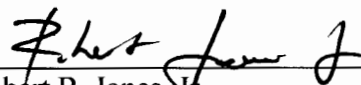
/s/ Dwayne K. Benfield
Dwayne K. Benfield
Supervising U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Djoni B. Barrett
Djoni B. Barrett
U.S. Probation Officer
200 Williamsburg Pkwy, Unit 2
Jacksonville, NC 28546-6762
Phone: 910-347-9038
Executed On: June 20, 2013

ORDER OF COURT

Considered and ordered this 20 day of June, 2013, and ordered filed and made a part of the records in the above case.


Robert B. Jones, Jr.
U.S. Magistrate Judge